IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

Criminal Application No.1129 of 2006

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separate.

Reliance placed by the learned counsel on the decision of ***Ammavasai and another .vs. Inspector of Police, Valliyanur and Others*** reported at ***(2000)9 SCC 749*** would be unhelpful because, in that case, the Apex Court had, in exercise of its discretion, ordered that the convicts should suffer rigorous imprisonment for 14 years in respect of three and four convictions respectively, wherein the convicts have been sentenced to suffer rigorous imprisonment for seven years each with direction that sentences shall run one after the other.

Apart from the fact that no ratio from the observations of the Supreme Court can be deduced from the judgment on which the learned counsel placed reliance to the effect that, in such circumstances, sentences should be ordered to run concurrently, the question of sentence is in the discretion of the Court and such discretion should be interfered with only if it is exercised arbitrarily, capriciously or in the manner which will lead to miscarriage of justice.

Learned counsel further submits that this Court has relied on the judgment of the Supreme Court in *Ammavasai and another .vs. Inspector of Police, Valliyanur and Others* (supra) in the case of ***Mohan Bhanudas Mohite .vs. State of Maharashtra (2004 (3) Mh.L.J. 624),*** where the Court had made sentences in two Sessions Cases to run concurrently. Those sentences were of imprisonment for ten years. Suffice it to observe that even by that judgment of this Court had it not been held that there is any rule which would require that sentences must, in such cases, run concurrently, there are no mitigating circumstances brought on record by the learned counsel like payment of amount of cheque to warrant any reduction in sentence. Loss in the business of the applicant is the matter for which he must blame himself and therefore, there is no warrant to entertain this application u/s. 482 of the Code of Criminal Procedure. Consequently, it is rejected.

JUDGE

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